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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/314,262	05/18/1999	STANLEY DALE VIERK	A-66435/JAS/	4944

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EXAMINER

RESAN, STEVAN A

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/314,262

Applicant(s)

VIERK ET AL.

Examiner

Stevan A. Resan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7-9,11-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7-9,11-17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-3,5,7-9,11-17,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landin et al RE 36806 in view of McCormack US 4726007 and Fuji JP 08-073676 for the reasons of record.
3. Applicant's arguments filed 3-20-03 have been fully considered but they are not persuasive.

First the examiner notes that applicants' arguments appear to be directed to limitations that are no longer in the claims. Note that in the current version of the claims EITHER elastic damping particles, anisotropic reinforcing agents or combinations are required to be present while in the previous version damping particles AND anisotropic reinforcing agents were required.

Applicants argue that Landin et al does not describe or suggest a data storage system comprising at least one plastic composite material exhibiting a modulus of about 350 kpsi or greater wherein the plastic composite material is filled with elastic damping particles and anisotropic reinforcing agents. Applicants argue that the damping layers of Landin et al are made of non-rigid viscoelastic rubber or resin.

However, the damping layer of Landin et al may be a rigid thermoplastic resin that may have fibrous or particulate materials added to further improve the damping properties. Landin et al specifically cite polycarbonate and polyetherimide resins (each of which have a modulus in excess of 350 kpsi) as suitable for the vibration damping

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thermoplastic resin (Col 6 line 63) that are two resins specifically used in applicants specification.

Landin et al also teach the use of non metallic fibrous materials such as glass fibers (Col 3 line 50) and the use of "an amount of particulate material effective to improve vibrational damping" (Col 3 lines 54-55) in the vibration damping material.

The examiner maintains therefore that it would have been prima facie obvious to select the resin, fibrous material, and particulate material which would produce maximum damping while maintaining a desired rigidity predicated by the disk laminate overall structure.

McCormack was used for teaching the equivalence of glass and carbon fiber for use as vibration damping reinforcing fillers and Fuji was used for teaching the use of elastic particles to improve vibrational damping in more rigid resins such as polycarbonate and polyarylethers further giving motivation to one of ordinary skill in the art to employ a polycarbonate when using elastic particles.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stevan A. Resan whose telephone number is (703) 308-4287. The examiner can normally be reached on Tues-Fri from 7:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau, can be reached on (703) 308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.


STEVAN A. RESAN
PRIMARY EXAMINER